The Planning Inspectorate

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Your Ref: PL/2023/09202
Our Ref: APP/Y3940/W/24/3343960

21 January 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr Nicholas Good
Site Address: The Mount, Upper Seagry, CHIPPENHAM, SN15 5EX

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Nadia Hussain
Nadia Hussain

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

Planning Inspectorate

Appeal Decision

Site visit made on 27 November 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/Y3940/W/24/3343960
The Mount, T Junction at Coach House Upper Seagry North West to Junction Henn Lane, Upper Seagry SN15 5EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Nick Good against the decision of Wiltshire Council.
- The application Ref is PL/2023/09202.
- The application sought planning permission for erection of an agricultural building for livestock and machinery storage and associated track without complying with a condition attached to planning permission Ref PL/2021/08755, dated 19 April 2022.
- The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: dwg no.KCC3042/03 09/21pg (location plan), dwg no.KCC3042/04 09/21pg (cross section of track), dwg no.KCC3042/01 09/21pg (proposed elevations and floor plans) [Received by the Local Planning Authority on the 10th of September 2021] & dwg no.KCC3042/05 03/22ec (proposed visibility splay), KCC3042/02A 03/22ec (revised block plan) [Received by the Local Planning Authority on the 4th of March 2022].
- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.

Decision

1. The appeal is allowed and planning permission is granted for erection of an agricultural building for livestock and machinery storage and associated track at The Mount, T Junction at Coach House Upper Seagry North West to Junction Henn Lane, Upper Seagry SN15 5EX in accordance with the application Ref PL/2023/09202, without compliance with condition number 2 previously imposed on planning permission Ref PL/2021/08755 dated 19 April 2022 and subject to the conditions listed in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Nick Good against the decision of Wiltshire Council. This is the subject of a separate decision.

Preliminary Matters

3. The evidence indicates that development the subject of the planning permission had begun but was not completed before the application was made. Therefore, I have considered the appeal under Section 73 of the Town and Country Planning Act 1990 (as amended) (the Act). The building was substantially complete at the time of my site visit.

Background and Main Issue

4. The application subject to this appeal is made under Section 73 of the Act for minor material amendments. The appellant seeks to erect a building of a revised but not substantially different design to that approved. The appeal seeks the variation of condition 2 to specify the plans that reflect the amended design.

5. The main issue is the effect of the proposed design amendments on the character and appearance of the area.

Reasons

6. The appeal site comprises part of a field, accessed from a well landscaped lane which leads to the heart of the village of Upper Seagry. The field is part of a patchwork of fields, interspersed with scattered buildings, hedges and trees which combine to give this part of the village an attractive rural character. The appeal site therefore contributes positively to the character and appearance of the area.

7. The design amendments have not increased the overall height of the eaves or ridge of the building but have increased the overall footprint of the building by moving the walls to the outer edges of the eaves, omitting the overhanging eaves feature, gable, and an open gated area to one corner. The external facing materials primarily comprise green metal sheeting with three roller shutter doors and a pedestrian door.

8. The design changes have resulted in a building which has a larger footprint and volume in comparison with the approved building. However, the increase is relatively modest and does not result in a building which is significantly more prominent in the landscape, given it is under a roof of very similar dimensions.

9. In comparison with the approved design, the proposed building is more boxy as a result of the removal of the overhanging eaves, gable and recessed section. It is also more uniform in terms of colour and material whereas the approved design includes a mix of materials, including timber.

10. However, the general appearance of either the approved or proposed scheme would be a functional, utilitarian building, reflective of its use. I acknowledge that the sheeting material will not soften over time in the way timber would, however it is a material which is commonly used in the countryside and is not unexpected or inappropriate in this location. The amended design is simple, responds well to the agricultural character of the area and is not excessive in scale. Whilst it lacks some of the articulation of the approved building, I do not find that this results in a harmful impact upon the character and appearance of the area.

11. At my site visit I noted that there is considerable variety in the existing agricultural and commercial buildings which are present near to the site, in terms of design and materials, including the use of metal sheeting. In this context the proposal would not appear incongruous or at odds with the pattern and form of development in the area.

12. Consequently, I conclude that the proposed design amendments would not result in harm to the character and appearance of the area. The proposal therefore accords with Core Policies 51 and 57 of the Wiltshire Core Strategy (Adopted January 2015) and Policy SNP5 of the Seagry Parish Neighbourhood Plan 2019 – 2036 (Made May 2021) (NP). Together these seek to ensure that development achieves

a high standard of design and responds positively to its context including landscape character.

Other Matters

13. The NP identifies at Map 8, a 'Key Break' between the core of Upper Seagry and a 'detached cluster' to the south. Policy SNP6 of the NP states that infill development should be avoided in the key breaks. However, a building in this location has been approved by the Council. The relatively small increase in the footprint and volume of the building would not result in a significantly different effect in terms of the key break.

14. The appeal relates solely to the variation of condition 2 and it is not within my remit to consider whether the building is justified. Concerns have been expressed in relation to highway safety, however the access arrangements onto the lane are not proposed to significantly change as a result of the proposed amendments.

Conditions

15. Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.

16. A condition relating to the commencement of development is not necessary as work has started. Condition 1 specifies the approved plans in the interests of certainty. At the time of my site visit the building was substantially complete but it was not clear whether the other elements of the proposal including the laying out and surfacing of the access track had been completed. I have therefore imposed the conditions which relate to the construction phase.

17. The appellant contends that suggested condition 8, which relates to the use of the barn is unnecessary. However, this condition was imposed on the original consent and is not the subject of this appeal. I am mindful that the appeal scheme is the subject of significant local interest and interested parties have not had the opportunity to comment on the removal of this condition. It is open for the appellant to pursue this matter through a separate application. I have therefore restated this condition (condition 7).

18. The remainder of the conditions are not in dispute, and it is not necessary for me to change these beyond minor changes for clarity and consistency.

Conclusion

19. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting with a new condition stating the revised drawings. I have restated those undisputed conditions that are still subsisting and capable of taking effect including condition 7 referred to above.

E Pickernell

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with drawing nos KCC3042-03, KCC3042-02B, KCC3042-01A, KCC3042/05 03/22ec.

2. If within a period of 10 years from 19th April 2022, the agricultural use of the building hereby permitted permanently ceases, the building/structure and resulting demolition materials shall be removed and the site shall, within a period of three months from the date of the substantial demolition of the said building/structure, be restored to its condition before the development took place or to such other condition as may be agreed in writing by the Local Planning Authority.

3. The external surfaces of the development hereby permitted shall be constructed in the materials shown on the approved plans, supporting statement and application form.

4. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

5. In the event that contamination is encountered at any time when carrying out the approved development, the Local Planning Authority must be advised of the steps that will be taken by an appropriate contractor to deal with contamination and provide a written remedial statement to be followed by a written verification report that confirms what works have been undertaken to render the development suitable for use.

6. No external lighting shall be installed/erected on site unless details of the lighting scheme/location are submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the barn shall be used solely for agricultural purposes.

END OF SCHEDULE

Planning Inspectorate

Costs Decision

Site visit made on 27 November 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3343960
The Mount, T Junction at Coach House Upper Seagry North West to Junction Henn Lane, Upper Seagry SN15 5EX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Nick Good for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for erection of an agricultural building for livestock and machinery storage and associated track without complying with a condition attached to planning permission Ref PL/2021/08755, dated 19 April 2022.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. Whilst the Planning Committee made a decision which was contrary to the officer recommendation, this does not in itself constitute unreasonable behaviour. The reason for refusal makes clear that the main issue relates to effect of the development on the character and appearance of the area. The building in its amended form, is materially different to the approved scheme, including an increase in footprint and volume and the use of materials. Whilst I have found the proposal to be acceptable, this is a matter of planning judgement, and the Council did not behave unreasonably in coming to a different view which has been substantiated in the Council's Statement. Consequently, the conclusion that the proposal conflicts with policy SNP5 of the Seagry Parish Neighbourhood Plan 2019 – 2036 (Made May 2021) (NP), which relates to character and design, was not unreasonable.

4. It is clear from the committee report and the minutes that the members of the committee were well aware of the fall-back position in respect of the originally permitted scheme. The 'Key Break' referred to in Policy SN6 of the NP is mentioned in the officer report and the Council's appeal statement however it does not form part of the reason for refusal. Considering the implications of this policy in the light of the amendments to the proposal does not constitute unreasonable behaviour.

5. The committee minutes do not detail a discussion in respect of the relevant paragraphs of the Framework, however the committee report provided adequate

detail of these and there is no substantive evidence to suggest that the committee were not mindful of these in coming to a view on the proposal.

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

E Pickernell

INSPECTOR